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LANDLORD – TENANT CODE

What leases are covered by the Landlord - Tenant Code?

The Landlord – Tenant Code, found at Title 25, Chapter 55 of the Delaware Code, applies to all residential rental agreement, written or oral. Commercial rental agreements are not covered by the code they are governed by general contract principles found at Title 25, Chapter 57.

Are single room rentals and summer rentals covered by the Code?

Single room rentals and summer rentals for less than 120 days are not covered by the Code.

How does a security deposit work?

A security deposit cannot be more than one month's rent if the lease, also called a rental agreement, is for one year or more. The landlord must give the tenant an itemized list of all damage to the rental unit and the cost of repair within 20 days of the termination of the lease or return the security deposit. If the lease is for an undefined term or the rent is on a month-to-month basis, the landlord may charge more than one month's rent.

Under what circumstances can the tenant terminate a lease early?

A tenant may terminate the lease early by giving the landlord 30 days written notice if one of the following conditions apply:

1. The tenant is required by his/her employer to move more than 30 miles away for work;
2. The tenant or one of his/her family members has a serious illness;
3. The tenant is accepted for admission into a senior citizen facility, group facility or retirement home;
4. The tenant is accepted into a unit subsidized by a governmental or non-profit organization, including subsidized housing;
5. The tenant enters the U.S Military on active duty;
6. If the tenant dies, a surviving spouse or personal representative of the estate may terminate.

If there is a substantial problem with the rental unit, such as vermin infestation or an unusable stove and the landlord fails to remedy the problem within 15 days after receiving written notice, the tenant may terminate.

What happens if the tenant does not pay rent?

The tenant must pay rent at the time and place agreed upon by both parties. If the rent is not paid within five days after the due date, the landlord may charge a late fee, which cannot be more than 5% of the monthly rent. The landlord may also send a '5 day letter' to the tenant demanding that the rent be paid within 5 days of receiving the letter. If the rent is not paid within 5 days, the landlord may file a lawsuit against the tenant for summary possession and if the landlord is granted summary possession, the tenant can be evicted.

What are the most common grounds for eviction?

The most common grounds for eviction are:

- The tenant stays in the unit without permission from the landlord after the lease has expired;
- The tenant fails to pay the rent after receiving a 5 day letter;
- The tenant wrongfully deducts money from the rent;
- The tenant violates a term of the lease, a rule or regulation;
- The tenant is convicted of a Class A misdemeanor or any felony.

What happens if the rental unit needs repairs?

The landlord must begin to correct a defective condition within 10 days of being notified by the tenant and must fix the problem completely within 30 days. If the landlord fails to do this, the tenant may complete the repairs and deduct one-half month's rent or \$200, whichever amount is lower.

What if the tenant breaches the rules of the lease or neglects the rental unit?

The landlord must give the tenant written notice of the violation and give the tenant 7 days to correct the problem. If the tenant does not correct the problem, the landlord may terminate the rental agreement and bring an action in the Justice of the Peace Court for summary possession to have the tenant evicted.

What happens if the landlord fails to provide essential services?

Essential services include running water, hot water, heat and electricity. If the landlord fails to provide these services within 48 hours after being notified by the tenant, the tenant can give written notice to the landlord and:

- Terminate the agreement, or
- Deduct two thirds of the daily rent that would have been due during the time the essential service(s) was not provided.

Can a landlord enter a rental unit without giving notice?

No. A landlord is required to give a tenant 48 hours notice before entering the rental unit unless:

- There is an emergency, or
- The landlord is making repairs requested by the tenant.

Additional information, including a copy of *The Landlord - Tenant Code* and a summary of the Code, is available on the Attorney General's website at www.state.de.us/attgen/ and by calling the Attorney General's Consumer Protection Unit at 800-220-5424 or 302-577-8600. The Consumer Protection Unit can discuss *The Landlord – Tenant Code* with you but cannot give you legal advice.

